

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PHIL SAMPSON,

Plaintiff,

v.

GILLESPIE, et al.,

Defendants.

Case No. 1:20-cv-00322-ADA-SAB

ORDER GRANTING STIPULATED
MOTION TO MODIFY SCHEDULING
ORDER

(ECF No. 53)

On September 30, 2022, the parties filed a stipulated motion to modify the scheduling order to the following pertinent dates: dispositive motion deadline on June 23, 2023; pretrial conference on December 18, 2023, and jury trial on February 20, 2024. (ECF No. 32.) On October 3, 2023, the Court granted the parties' motion. On June 23, 2023, Defendants filed a motion for summary judgment. (ECF No. 37.) The motion has not been decided.

On November 28, 2023, the parties filed a second stipulated motion to either vacate the pretrial conference and trial dates until after the motion for summary judgment is decided or, alternatively, continue both the December 18, 2023 pretrial conference to December 16, 2024 and the trial set for February 20, 2024 until February 24, 2025. (ECF No. 53-1.) The parties proffer it would be premature to conduct the pretrial conference currently set for December 18, 2023 without knowing which, if any, issues will be disposed of by the Court's ruling on the pending motion for summary judgment. (ECF 53 at 2.) The parties further contend they cannot adequately prepare the joint pretrial conference statement currently due on December 11, 2023 to reflect the issues for trial without the Court's ruling. (Id.) The Court finds good cause exists to

1 vacate both the pretrial conference and trial until the motion for summary judgment is decided.

2 As the parties acknowledge in their motion, Judge de Alba was recently appointed to the
3 Ninth Circuit. Accordingly, no District Judge is currently assigned to the pending action.¹ The
4 parties are reminded that Magistrate Judges are available to conduct case dispositive
5 proceedings, including motions to dismiss, motions for summary judgment, a jury or non-jury
6 trial, and entry of a final judgment. However, exercise of this jurisdiction by a Magistrate Judge
7 is permitted only if all parties voluntarily consent. To consent or decline to Magistrate Judge
8 jurisdiction, a party may sign and file the consent form available on the Court's website, at:
9 <http://www.caed.uscourts.gov/caednew/index.cfm/forms/civil/>. Parties may consent, decline, or
10 withhold consent without any adverse consequences, and the assigned Magistrate Judge will not
11 be informed of the individual party's holding or withholding of consent.

12 IT IS HEREBY ORDERED that the parties' stipulated motion (ECF No. 53) is
13 GRANTED, and the pretrial conference currently set for December 18, 2023 and trial
14 currently set for February 20, 2024 are VACATED. The Court will reset the dates for
15 the pretrial conference and trial, if necessary, following the Court's ruling on Defendants'
16 motion for summary judgment.

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18 IT IS SO ORDERED.

19 Dated: November 29, 2023


UNITED STATES MAGISTRATE JUDGE

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23 ¹ The Court emphasizes that aside from the recent appointment leaving this case unassigned to an
24 active District Judge, the District Judges in the Eastern District are among the busiest in the
25 nation. (See ECF No. 40 entered in Case No. 1:20-cv-01069-ADA-SAB ("The parties are
26 further advised that due to the judicial resource emergency and COVID pandemic, there are
27 more than 130 motions currently under submission in Judge de Alba's recently re-assigned
28 caseload. The Court understands the impact that such a backlog has on the parties and although
the Court will continue working diligently to resolve all pending motions, it may still be months
before the parties' pending motion is resolved. As such, in light of having the heaviest district
court caseload in the nation, limited Court resources, and the need to prioritize criminal and older
civil matters over more recently filed actions, this Court strongly encourages the parties to
consent to conduct all further proceedings before a U.S. Magistrate Judge.").)